

MEMPHIS DOWNTOWN:  
One Commerce Square, Ste 2000  
Memphis, Tennessee 38103  
telephone: (901) 259-7100  
facsimile: (901) 259-7150

Charles B. Welch, Jr.  
cbwelch@farris-law.com

**FARRIS MATHEWS BRANAN  
BOBANGO & HELLEN, PLC**

**ATTORNEYS AT LAW**

**HISTORIC CASTNER KNOTT BUILDING  
618 CHURCH STREET, SUITE 300  
NASHVILLE, TENNESSEE 37219-2436**

(615) 726-1200 Telephone  
(615) 726-1776 Facsimile

November 22, 2000

MEMPHIS EAST:  
530 Oak Court Drive, Ste. 345  
Memphis, Tennessee 38117  
telephone: (901) 762-0530  
facsimile: (901) 683-2553

**Writer's Direct Dial:  
(615) 687-4230**

**VIA HAND DELIVERY**

Mr. K. David Waddell  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: Complaint by AT&T Regarding the Provisions of Calling Name Delivery  
By BellSouth Telecommunications, Inc.  
Docket No. 00-00971

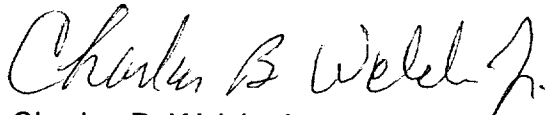
Dear Mr. Waddell:

Enclosed for filing, please find the original plus thirteen (13) copies of the Initial Brief of Threshold Issues Submitted on Behalf of Time Warner Telecom of the Midsouth, L.P. in the referenced docket. Copies are being served on parties of record.

If you have any questions or concerns with regard to this filing, please do not hesitate to contact me.

Very truly yours,

**FARRIS, MATHEWS, BRANAN,  
BOBANGO & HELLEN, P.L.C.**

  
Charles B. Welch, Jr.

CBW:lw

Enclosures

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE:

COMPLAINT BY AT&T REGARDING  
THE DELIVERY OF CALLING NAME  
SERVICES BY BELL SOUTH  
TELECOMMUNICATIONS, INC.

)  
)  
)  
)  
)  
)

Docket No. 00-00971

---

**INITIAL BRIEF OF THRESHOLD ISSUES  
SUBMITTED ON BEHALF OF  
TIME WARNER TELECOM OF THE MID-SOUTH, L.P.**

---

Pursuant to Order of the Hearing Officer entered on November 16, 2000, Time Warner Telecom of the Mid-South, L.P. ("Time Warner") submits its initial brief of the threshold issues. The threshold issues are as follows:

- (1) Is BellSouth legally obligated to provide CLECs with the elements necessary to deliver caller name services?
- (2) Is BellSouth legally obligated to provide CLECs with 10-digit global title translation?

**I. Background**

Since the introduction of number portability, BellSouth has failed to upgrade its network to support 10-digit global title translation despite its repeated representations and promises to do so within a reasonable time. BellSouth's continued failure to upgrade its network makes CLEC compliance with Tennessee Regulatory Authority Rule 1220-4-11-.02(5) technically impossible when its customer is using a ported BellSouth number. The failure to perform the upgrade has been especially problematic for CLEC customers in businesses such as emergency personnel, government agencies, established community

and business organizations, and charitable organizations that highly value the delivery of their CNAM information to called parties. BellSouth has admitted that the network upgrade is technically feasible and has repeatedly committed to complete the upgrade. BellSouth has simply not allocated the resources to finish the work in a reasonable period of time thus placing CLECs at a competitive disadvantage in serving its customers using ported BellSouth numbers.

Although Time Warner contends that BellSouth is legally obligated to provide CLECs with elements necessary to deliver caller named services and with 10-digit global title translation, Time Warner submits that these issues should be considered moot. BellSouth has, on numerous occasions, promised various CLECs that it could and would provide these services. The CLECs have relied upon BellSouth's commitment, and BellSouth should not now be permitted to withdraw from this obligation. In fact, BellSouth has reaffirmed its commitment to implement 10-digit global title translation in all Tennessee area codes by April 6, 2001, in its response to AT&T's complaint dated November 3, 2000. Since BellSouth has already legally obligated itself to provide these services, the critical determination in this proceeding is the time frame for completing network upgrade and implementation.

## **II. Is BellSouth Legally Obligated to Provide CLECs with the Elements Necessary to Deliver Caller Name Services?**

Section 251(b)(2) of the 1996 Act requires all local exchange carriers ("LECs") "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." 47 U.S.C. § 251(b)(2). The Act in turn defines "number portability" as "the ability of users of telecommunications services to

retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.” Id. § 153(30).

The FCC has incorporated this definition into its rules, which set forth performance criteria that LECs must meet with regard to number portability. 47 C.F.R. § 52.23(a). Of particular relevance here, the FCC’s rules specifically require BellSouth to provide number portability that supports network services, features, and capabilities existing at the time number portability is implemented, *including CLASS features such as caller ID.* Id. § 52.23(a)(1). As the FCC has recognized, CNAM is necessary to provide caller ID and other related telecommunications services. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Red 3696, ¶¶406, 416 (1999). BellSouth also must provide number portability that “*does not result in any degradation in service quality or network reliability when customers switch carriers.*” 47 C.F.R. § 52.23(a)(5) (emphasis added). Absent compliance with such requirements, the FCC has concluded that competitive LECs will be at a competitive disadvantage because customers will not want to switch carriers “if they are required to forego services and features to which they have become accustomed.” Telephone Number Portability, 11 FCC Red 8352, ¶ 49 (1996) (“Number Portability Order”).<sup>1</sup>

As explained above, BellSouth has failed to meet these requirements and has

---

<sup>1</sup>

The FCC has previously concluded that the provision of caller ID is in the public interest “because national availability of caller ID enables a multitude of services, efficiency gains, and additional choices for consumers.” See Number Portability Order ¶ 49 n.146 (citations omitted).

repeatedly failed to cure the deficiencies of its number portability functionalities, despite numerous promises to do so. BellSouth has long offered to implement what it has characterized as an interim solution, but this solution is discriminatory and inadequate. It requires a CLEC to modify its systems to download CNAM information for its customers using ported BellSouth numbers into BellSouth's CNAM database, thereby (1) giving BellSouth free access to that information, which could be used in an anticompetitive manner, (2) freeing BellSouth from the cost of dipping the appropriate database for the CNAM information (a cost that a CLEC that performs 10-digit global title translations incurs when a BellSouth customer calls one of the CLEC's customers), and (3) requiring CLECs to incur the cost of downloading the CNAM information into the BellSouth database (again, a cost that BellSouth would not incur for CLECs that perform 10-digit global title translations). In addition to being too costly and discriminatory to be viable, BellSouth's interim proposal does not remedy the problem with regard to numbers ported from carriers other than BellSouth. Under the interim proposal, when a CLEC customer with a number ported from another CLEC calls a BellSouth customer, the BellSouth switch would dip the CNAM database of the CLEC to whom the calling party's number was originally assigned. That CLEC's database would no longer contain CNAM information for the calling party. Thus, in this instance, the CNAM information would not appear on the called party's caller ID unit even if the BellSouth interim proposal is implemented. In short, the interim solution does not and cannot address the problem of BellSouth failing to deliver caller name for ported CLEC numbers.

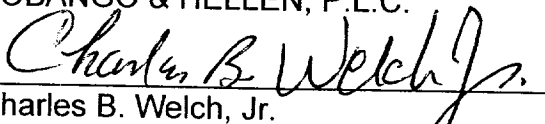
**III. Is BellSouth Legally Obligated To Provide CLECs With 10-Digit Global Title Translation?**

Based upon the authority relied upon in response to issue (1), Time Warner contends that 10-digit global title translation is the most efficient and technically feasible method to ensure that number portability is provided that "does not result in any degradation in service quality or network reliability when customers switch carriers." supra. Further, BellSouth has already committed to implementing global title translation to support CNAM. Clearly, BellSouth is legally bound to providing this functionality.

Given its consistent pattern of failing to meet previous commitments, Time Warner has little basis for believing that BellSouth will perform according to the timetable it has suggested. BellSouth must therefore be ordered to upgrade its number portability capability so that it complies with all the FCC's performance criteria, including nondiscriminatory service quality for CLEC customers, and so that it supports CLASS features such as CNAM/caller ID. In particular BellSouth should be ordered to keep to a specific timetable for testing and implementation. Based on BellSouth's previous representations, Time Warner submits that BellSouth should be ordered to accomplish full implementation no later than March 31, 2001.

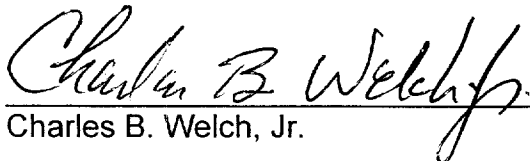
Respectfully submitted,

FARRIS, MATHEWS, BRANAN,  
BOBANGO & HELLEN, P.L.C.

  
Charles B. Welch, Jr.  
Attorney for Time Warner Telecom of  
The Mid-South, L.P.  
618 Church St., Suite 300  
Nashville, TN 37219  
(615) 726-1200

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following by placing same in U.S. Mail, postage prepaid, this the 22<sup>nd</sup> day of November, 2000.

  
\_\_\_\_\_  
Charles B. Welch, Jr.

Guy M. Hicks, Esquire  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, TN 37201-3300

Henry Walker, Esq.  
Attorney for SECCA  
Boult, Cummings, et al.  
PO Box 198062  
Nashville, TN 37219-8062

Dana Shaffer  
XO Communications, Inc.  
105 Molloy St., Suite 300  
Nashville, TN 37201

Garry L. Sharp  
AT&T  
414 Union St., Suite 1830  
Nashville, TN 37219